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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,789	11/30/2001	Dorron Levy	Q66130	4578

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SUGHRUE MION, PLLC
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WASHINGTON, DC 20037

EXAMINER

WACHSMAN, HAL D

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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Commissioner for Patents

Hal D Wachsman
Primary Examiner
Art Unit: 2857

Office Action Summary

Application No.

09/996,789

Applicant(s)

LEVY ET AL.

Examiner

Hal D Wachsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 3-16 and 22-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,17-21 and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's election without traverse of species I (claims 2, 17, 18, 21, 36, 37) in Paper No. 4 is acknowledged. The Examiner notes that claims 1, 19, 20 and 38-40 which were deemed generic to the elected species I (as well as generic to the other non-elected species) have also been examined.
2. Claims 3-16 and 22-35 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.
3. The drawings have been approved.
4. The declaration is objected to because it is missing the residence for inventor Dorron Levy. Appropriate correction is required.
5. The Abstract is objected to because it contains purported merits (i.e. "Thus no detailed knowledge of the system being monitored is required, and furthermore the apparatus is applicable to systems irrespective of the system complexity"). Appropriate correction is required.
6. Claims 20, 21 and 39 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 20, line 4, cites "said feature" which lacks antecedent basis. The preamble of claim 39 cites "A data carrier holding data which when combined with a general purpose computer is operable to provide" however it is not clear how the functionality of the data carrier here is being realized to make the computer operable if there is nothing being executed on the computer. The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions

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of the applicant he feels confusion could be drawn from the limitations cited above.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 17-21 and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by White et al. (5,586,066).

As per claim 1, White et al. (Abstract, col. 113 lines 2-10) disclose a measurement unit for repeatedly measuring a disorder indicator (the sensed industrial process data corresponding to the operational state of the industrial process system or sensors monitoring the process) of the system. White et al. (Abstract, figures 3D, 3E col. 10 lines 4-7, col. 113 lines 14-28) disclose “a comparator for comparing obtained measurements of said disorder indicator with a predetermined statistical description of said disorder indicator to determine whether a deviation.....to issue a failure prediction upon determination that such a deviation is statistically significant”.

As per claim 2, White et al. (col. 10 lines 11-12) indicate that the industrial system can include a nuclear power station and col. 116 lines 15-17 indicate that an alarm is generated for at least one of an automated response by a device operating the

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industrial process or a manual response by an operator. It is inherent in the art that in a nuclear power plant, because of the radiation hazard in the reactor compartment, many sensors and alarms would need to be monitored remotely by the operator in the control room necessitating the communication link cited in the claim.

As per claim 17, White et al. (Abstract, figure 2, col. 4 lines 3-5, col. 10 lines 4-7, col. 116 lines 14-17) disclose the feature of this claim.

As per claim 18, White et al. (col. 10 lines 7-18) disclose the feature of this claim.

As per claim 19, White et al. (Abstract, col. 113 lines 2-10) disclose a measurement unit for repeatedly measuring a disorder indicator (the sensed industrial process data corresponding to the operational state of the industrial process system or sensors monitoring the process) of the system. White et al. (Abstract, figures 2, 3D, 3E col. 10 lines 4-7, col. 113 lines 14-28) disclose "a statistical unit for building up a statistical description of said disorder indicator...during a training phase of operation of said system". White et al. (Abstract, figure 3D, col. 10 lines 4-7, columns 13 and 14, last paragraph, col. 114 lines 10-24) disclose "a system threshold, for using said statistical description....to predict system failure".

As per claim 20, White et al. (Abstract, col. 113 lines 2-10) disclose the repeatedly measuring step. White et al. (Abstract, figures 3D, 3E col. 10 lines 4-7, col. 113 lines 14-28) disclose both the comparing and determining steps. White et al. (Abstract, col. 10 lines 4-7) disclose the issuing an alert step.

As per claim 21, White et al. (col. 10 lines 11-12) indicate that the industrial system can include a nuclear power station and col. 116 lines 15-17 indicate that an alarm is generated for at least one of an automated response by a device operating the industrial process or a manual response by an operator. It is inherent in the art that in a nuclear power plant, because of the radiation hazard in the reactor compartment, many sensors and alarms would need to be measured remotely by the operator.

As per claim 36, White et al. (Abstract, figure 2, col. 4 lines 3-5, col. 10 lines 4-7, col. 116 lines 14-17) disclose the feature of this claim.

As per claim 37, White et al. (col. 10 lines 7-18) disclose the feature of this claim.

As per claim 38, White et al. (Abstract, col. 113 lines 2-10) disclose both the selecting and repeatedly measuring steps. White et al. (Abstract, col. 3 lines 55-67) disclose the obtaining step. White et al. (Abstract, figures 3D, 3E col. 10 lines 4-7, col. 113 lines 14-28) disclose both the comparing and determining steps. White et al. (Abstract, col. 10 lines 4-7) disclose the issuing an alert step.

As per claim 39, White et al. (Abstract, col. 113 lines 2-10) disclose a measurement unit for repeatedly measuring a disorder indicator (the sensed industrial process data corresponding to the operational state of the industrial process system or sensors monitoring the process) of an external system. White et al. (Abstract, figures 3D, 3E col. 10 lines 4-7, col. 113 lines 14-28) disclose "a comparator for comparing obtained measurements of said disorder indicator with a predetermined statistical

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description of said disorder indicator to determine whether a deviation.....to issue a failure prediction upon determination that such a deviation is statistically significant”.

9. Claim 40 is rejected under 35 U.S.C. 102(b) as being anticipated by Rauscher (5,655,074).

As per claim 40, Rauscher (Abstract, figure 1, col. 4 lines 2-11, col. 8 lines 61, 62) discloses a measurement unit for repeatedly measuring a disorder indicator (the measured attributes for each of the components of the software) of a system. Rauscher (Abstract, col. 3 lines 15-23, col. 4 lines 21-50, col. 5 lines 13-28, col. 6 lines 1-23, 50-55, 62-64, col. 7 lines 53-66) discloses “a comparator for comparing obtained measurements of said disorder indicator with a predetermined statistical description of said disorder indicator.....said apparatus being operable to issue a quality score of said software based on an extent of said deviation”.

10. The following references are cited as being art of general interest: Wegerich et al. which disclose monitoring a source of data for determining the operating state of a working system, Baker et al. which disclose adaptive profiling, fault detection and alert generation, Dempsey which discloses dynamic deviation, Chiang et al. which disclose a learning machine for predicting path performance degradation in a communications network, Mayle et al. which disclose an automated adaptive baselining and thresholding method and system and Husseiny which discloses failure prediction in machinery.

11. No claims are allowed.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-

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9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hal D Wachsmann
Primary Examiner
Art Unit 2857

HW
August 21, 2003